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OFFICE OF PETITIONS

In re Application of :
Duane Firman :
Application No. 10/624,160 :
Filed: July 21, 2003 :
Attorney Docket No. 9400-32 :

DECISION GRANTING
PETITION

This is a decision on the "PETITION TO ACCORD THE PROPER FILING DATE," filed April 5, 2004, requesting that the above-identified application be accorded a filing date of July 21, 2003, rather than the presently accorded filing date of July 22, 2003.

Petitioner maintains that on July 21, 2003, the application was deposited as "Express Mail" in the U.S. Postal Service. In support thereof, applicant submits, inter alia, a transmittal letter specifically identifying the papers being filed therewith and noting thereon the Express Mail mailing label No. "EV318421245US"; a copy of the Express Mail mailing label; and a copy of petitioner's filing receipt.

The evidence supports a conclusion that the instant petition was filed promptly within the meaning of § 1.10(c)(1). The transmittal specifically identifies the papers being filed, was in fact received with the application papers, and bears the Express Mail mailing label number. Thus, petitioner has shown that the "Express Mail" mailing label number "EV318421245US" was placed on the papers prior to the original mailing.

A review of the "Express Mail" mailing label reveals that it bears both a handwritten date-in of July 22, 2003 and a USPS postmark of July 21, 2003. The Official USPS postmark corroborates petitioner's claim that the application papers were deposited in Express Mail service on July 21, 2003.

In view thereof, the petition is GRANTED.

No petition fee is required.

The Office of Initial Patent Examination (OIPE) has been directed, pursuant to this decision, to correct the filing date to July 21, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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